

ORDERED.

Dated: July 29, 2016



Catherine Peek McEwen
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re:

Case No. 8:16-bk-00033-CPM

STUART JOSEPH SELVAGGI,

Chapter 13

Debtor.

/

ORDER TO SHOW CAUSE TO OCWEN LOAN SERVICING, LLC

THIS CASE came on for consideration on the Court's own motion to consider entry of an appropriate order. On January 15, 2016, the Court entered an order (the "Order") (Doc. 17) in this bankruptcy case confirming that the sale order entered in the foreclosure action, Case No. 13-002609-CI, in the Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida (the "Foreclosure Case"), involving property located at 8410 66th Way North, Pinellas Park, Florida (the "Property") in which the Debtor has an interest, is void. The Order explains that the automatic stay "went into effect upon the filing of this [bankruptcy] case at 9:23 a.m. on January 5, 2016," and that the foreclosure sale conducted at 11:17 a.m. on January 5, 2016, therefore violated the automatic stay. The Order expressly states, "TITLE TO THE PROPERTY REMAINS VESTED IN THIS BANKRUPTCY ESTATE AS A MATTER OF LAW." The record (Doc. 22) reflects that a copy of

the Order was mailed to Ocwen via first class mail on January 21, 2016.¹ On June 22, 2016, Ocwen Loan Servicing, LLC (“Ocwen”), the plaintiff in Foreclosure Case, filed a motion in that case (the “Motion”) asking the state court to reset the foreclosure sale. The Motion acknowledges that the Debtor filed for bankruptcy relief on January 5, 2016, and notes that the prior sale was vacated. The Motion further states that the Debtor is not a party to the Foreclosure Action and “as such, no stay is imposed by the bankruptcy action filed.” The court in the Foreclosure Action granted the Motion and directed the clerk to reset the foreclosure sale to August 22, 2016. This Court takes judicial notice of the Motion and order granting the same, copies of which are attached hereto. Accordingly, it is

ORDERED that Ocwen is directed to appear before the undersigned on August 16, 2016, at 10:00 a.m., in Courtroom 8B, 801 North Florida Avenue, Tampa, Florida 33602, and show cause why the Court should not: 1) impose sanctions against Ocwen for filing the Motion to reset the foreclosure sale without seeking relief from the automatic stay in contravention of this Court’s prior ruling as stated in the Order and 2) if a foreclosure sale goes forward on August 22, 2016, enter an order declaring such sale void as having been conducted in violation of the automatic stay.

The Clerk is directed to serve a copy of this order on the Debtor, Ocwen Loan Servicing, LLC, 1501 N.W. 49th Street, Ft. Lauderdale, FL 33309, and Hon. Jack R. St. Arnold, Sixth Judicial Circuit Court of Florida, 315 Court Street, Rm. 468, Clearwater, FL 33756.

¹ The record (Doc. 27) also reflects that on February 4, 2016, the Court mailed Ocwen a copy of the Debtor’s Chapter 13 Plan (Doc. 25), which reflects Debtor’s intent to retain his interest in the Property and pay ongoing mortgage payments and arrears, if any, through the Plan.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

Ocwen Loan Servicing, LLC

GENERAL JURISDICTION DIVISION

Plaintiff,

Case No. 13-002609-CI

vs.

Marilyn Parker a/k/a Marilyn W. Parker; *et al*

Defendants.

PLAINTIFF'S MOTION TO RESET FORECLOSURE SALE

Plaintiff, Ocwen Loan Servicing, LLC, by and through its undersigned counsel, hereby files this Motion to Reset Foreclosure Sale and in support thereof states as follows:

1. On September 4, 2015, this Court entered a Final Judgment of Foreclosure pursuant to which a foreclosure sale was scheduled for January 05, 2016.
2. A suggestion of bankruptcy was filed by Stuart Joseph Selvaggi, a nonparty of this foreclosure action, on January 05, 2016 after the sale took place.
3. The foreclosure sale scheduled for January 05, 2016 held and property reverted to 3rd party named Michael J and Lucille M. Hall.
4. Stuart Joseph Selvaggi is not a party to this action, and as such, no stay is imposed by the bankruptcy action filed.
5. On January 20, 2016, this court entered an Order Vacating the January 05, 2016 Foreclosure Sale, Certificate of Sale, and Certificate of Title.
6. Plaintiff is ready to proceed with the foreclosure sale at this time and requests that the sale be reset.

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Case No. 13-002609-CI



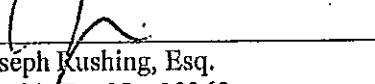
File # 14-F03301



WHEREFORE, Plaintiff prays that this Court will enter an order resetting the foreclosure sale, and such other and further relief as this Court deems just and proper.

I HEREBY CERTIFY that a true and correct copy hereof was served electronically or via U.S. Mail on June 22, 2016 to all persons shown on the following service list.

BROCK & SCOTT, PLLC
Attorney for Plaintiff
1501 N.W. 49th Street, Suite 200
Ft. Lauderdale, FL 33309
Phone: (954) 618-6955, ext. 6209
Fax: (954) 618-6954
FLCourtDocs@brockandscott.com

By 
Joseph Rushing, Esq.
Florida Bar No. 28365

SERVICE LIST

The following persons were served by e-mail:

Palmbrooke Townhomes Property Owners Association, Inc.
Rabin & Parker, P.A.
28163 U.S. Highway 19 North, Suite 2007
Clearwater, FL 33761
pleadings@rabinparker.com

The following persons were served by U.S. mail:

Marilyn Parker a/k/a Marilyn W. Parker
9844 Sherbrook Lane
Jacksonville, FL 32221

Unknown Tenant/Occupant
8410 66th Way Noth
Pinellas Park, FL 33781

Tom Parker a/k/a Tom W. Parker
9844 Sherbrook Lane
Jacksonville, FL 32221

The Bank of New York Mellon f/k/a The
Bank of New York, as Trustee for the
Certificateholders of CWHEQ, Inc., Home
Equity Loan Asset Backed Certificates
Series 2007-S1
c/o President, Vice President or any other
Officer authorized to accept service
One Wall Street
New York, NY 10286

Mortgage Electronic registration Systems,
Inc., as Nominee for Countrywide Home
Loans, Inc.
c/o C.T. Corporation System, as Registered
Agent
1200 South Pine Island Road
Plantation, FL 33324

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

Ocwen Loan Servicing, LLC

GENERAL JURISDICTION DIVISION

Plaintiff,
vs.

Case No. 13-002609-CI

Marilyn Parker a/k/a Marilyn W. Parker; *et al*

Defendants

CLERK OF CIRCUIT COURT
KEN BURKE
2016 JUN 28 AM 8:56
CIVIL COURT REC'D BY
ELFO

ORDER GRANTING MOTION TO RESET FORECLOSURE SALE

THIS CAUSE having come before the Court on the Plaintiff's Motion to Reset Foreclosure Sale, and the Court having heard argument of the parties, having reviewed the file and, being otherwise duly advised, it is

ORDERED AND ADJUDGED:

The Plaintiff's Motion to Reset Foreclosure Sale is hereby GRANTED.

The clerk is directed to reset the foreclosure sale for 22 August 2016,

by electronic sale at www.pinellas.realforeclose.com at 10:00 AM.

DONE AND ORDERED in Chambers at Pinellas County, Florida, this 27th day of

June, 2016.

By:

D. L. C. H.
CIRCUIT COURT JUDGE

Copies furnished to:

Following Service List

Jimmy Edwards Esq.
Brock & Scott, PLLC
Attorney for Plaintiff
1501 N.W. 49th Street, Suite 200
Ft. Lauderdale, FL 33309
FLCourtDocs@brockandscott.com

Marilyn Parker a/k/a Marilyn W. Parker
9844 Sherbrook Lane
Jacksonville, FL 32221

Tom Parker a/k/a Tom W. Parker
9844 Sherbrook Lane
Jacksonville, FL 32221

Mortgage Electronic registration Systems, Inc., as Nominee for Countrywide Home Loans, Inc.
c/o C.T. Corporation System, as Registered Agent
1200 South Pine Island Road
Plantation, FL 33324

Palmbrooke Townhomes Property Owners Association, Inc.
Rabin & Parker, P.A.
28163 U.S. Highway 19 North, Suite 2007
Clearwater, FL 33761
pleadings@rabinparker.com

Unknown Tenant/Occupant
8410 66th Way Nth
Pinellas Park, FL 33781

The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the
Certificateholders of CWHEQ, Inc., Home Equity Loan Asset Backed Certificates Series 2007-
S1
c/o President, Vice President or any other Officer authorized to accept service
One Wall Street
New York, NY 10286